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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,789	06/07/2006	Yohci Hasegawa	040405-0378	5929
23428 7590 02/03/2012 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER ZHAO, WEI	
			ART UNIT 2475	PAPER NUMBER
			MAIL DATE 02/03/2012	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action**  
**Before the Filing of an Appeal Brief**

**Application No.**

10/576,789

**Applicant(s)**

HASEGAWA ET AL.

**Examiner**

WEI ZHAO

**Art Unit**

2475

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 31 January 2012 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_  
Claim(s) objected to: \_\_\_\_\_  
Claim(s) rejected: 1, 2, 4-18, 20-34 and 36-57  
Claim(s) withdrawn from consideration: \_\_\_\_\_

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.

/DANG T TON/  
Supervisory Patent Examiner, Art Unit 2475

Wei Zhao  
Examiner  
Art Unit: 2475

Continuation of 3. NOTE: On pages 10-12 of the Response with respects to claim 1, Applicants assert the prior art doesn't teach "execute instructions to examine maximum values of a packet size allowed by a connection related to communication and unify the smallest size among the packet size maximum values as a maximum value of an allowable packet size."

The prior art teaches that in the implementation of the server 104, the storage of data blocks is separated from the index used to locate the blocks, as is also apparent from FIG. 1. More particularly, blocks are stored in an append-only log on storage element 116, the storage element being in the form of a RAID array of magnetic disk drives (paragraph [0041] lines 1-6, Dorward et al.). FIG. 2 is a simplified block diagram of one possible implementation of the server 104. In this implementation, the server 104 includes a processor 200 coupled to a memory 202 and to a network interface 204. The memory 202 may comprise elements 110, 112, 114 and 116 of the server 104, and may be distributed over multiple distinct storage devices. Moreover, memory 202 stores one or more software programs which are executable by the processor 200 in conjunction with provision of the archival data storage techniques described herein (paragraph [0025] lines 1-10, Dorward et al.). The ID 1005 is an identifier for establishing consistency in the divided data. The ID 1005 is set in a flag field in the IP header of a packet created when the data is transmitted to the host computer. Thus, the divided data can be restored by referring to this flag field for the packet transmitted from a plurality of I/O ports. The data offset 1010 indicates the place where the divided data is located in the data which has not yet been divided (paragraph [0066] lines 1-8, Mizuno).

The prior art further teaches that the packetizer 104 will fragment or aggregate media packets into network packets according to their respective sizes. Media packets are generally described as constant-sized packets containing either video or audio data. Specifically, if the size of a media packet in media file 102 is larger than the optimal network packet size, the packetizer 104 will fragment the large media packet into two or more successive network packets. On the other hand, if the size of a media packet in media file 102 is smaller than the optimal network packet size, packetizer 104 may aggregate two or more media packets into a single network packet--so long as this would not place a start code at a forbidden location within the RTP packet (column [2] lines 49-61, Firestone; Examiner's Notes: this feature teaches the limitation of "execute instructions to examine maximum values of a packet size allowed by a connection related to communication and unify the smallest size among the packet size maximum values as a maximum value of an allowable packet size" in the instant application).

Based on the fact, Examiner respectfully disagrees that the prior art cited does not teach the independent claim 1 as mentioned by applicants. The elements of independent claims 17 and 33 that Applicants argue are similar to claim 1's, so the cited passages also teach claims 17 and 33. Furthermore, the cited passages teach dependent claims 2, 4-16, 18, 20-32, 34 and 36-57 as well.